IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

W.P.(C).No.5327 of 2007(H)

PETITIONER:-

DR.N.VISWANATHAN, AGED 57 YEARS,
S/O.M.K.NARAYANAN VYDYAN, KANJANATHU BANGLAVU,
MUKKOLAKKAL P.O., TRIVANDRUM, TRIVANDRUM DISTRICT,
MEMBER NO.230 TRIVANDRUM AYURVEDA OUSHADA NIRMANA
VYAVASAYA CO-OPERATIVE SOCIETY LTD.NO.SIND(T)254.

BY ADV. SRI.N.K.SUBRAMANIAN
SRI.S.ANANTHAKRISHNAN

RESPONDENTS:-

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1. THE THIRUVANANTHAPURAM AYURVEDA OUSHADA NIRMALA VYAVASAYA CO-OPERATIVE SOCIETY LTD.NO.SIND(T)254, KANNETHUMUKKU, THYKAD, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.

2. THE RETURNING OFFICER, THE THIRUVANANTHAPURAM AYURVEDA OUSHADA NIRMANA VYAVASAYA CO-OPERATIVE SOCIETY LTD NO.SIND(T)254, KANNETTUMUKKU, THYKAD/JUNIOR CO-OPERATIVE INSPECTOR, OFFICE OF THE TALUK INDUSTRIES OFFICE, THIRUVANANTHAPURAM (HL)

3. THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, DISTRICT INDUSTRIES CENTRE, THIRUVANANTHAPURAM.

R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

K.Padmanabhan Nair,J.

W.P.(C).No.5327 of 2007-H

Dated, this the 19th day of February, 2007

JUDGMENT

According to the petitioner, he is a member of the Thiruvananthapuram Ayurveda Oushada Nirmana Vyavasaya Co-operative Society Ltd.No.SIND (T) 254. The case of the petitioner is that the 2nd respondent issued election notification to conduct election to the Board of Directors and he filed a nomination. According to the petitioner, he filed Exhibit P4 application for getting a nomination form and he was supplied with nomination form and he filed it before the Returning Officer. Exhibit P5 is the photo copy of the same. His further case is that so far his nomination was not rejected, but at the same time his name is not included in the list of candidates.

2. It is admitted that election is scheduled to be conducted on 21.02.2007. The learned Government Pleader on instructions submits that if any person wants to contest the election by filing nomination, he has to obtain a free nomination form from the Society and for that purpose a Register is kept in

the Society. Eleven persons have approached the Society and all of them were supplied with nomination forms and they had affixed their signature in the Register. The petitioner has not approached the Society and he was not issued with any nomination paper and he has not signed in the Register and has not filed any nomination also.

3. The question whether the petitioner had submitted a nomination itself is in dispute. It is not possible to take a decision in such a matter in a proceedings under Article 226 of the Constitution of India. So, the proper remedy available to the petitioner is to challenge the election under Section 69(2)(c) of the Kerala Co-operative Societies Act, especially in view of the fact that the matter requires evidence. Without prejudice to the right of the petitioner to challenge the result of the election, this writ petition is closed.

K.Padmanabhan Nair
Judge

vku/-